

REPORT TO THE TWENTY-THIRD LEGISLATURE
STATE OF HAWAII
2005

PURSUANT TO CONCURRENT RESOLUTION NO. 103, H.D. 1, REQUESTING
THE DEPARTMENT OF HEALTH AND DEPARTMENT OF HUMAN SERVICES TO
EXAMINE THE FEDERAL INDEPENDENCE PLUS INITIATIVE TO DETERMINE IF
HAWAII CAN BENEFIT FROM APPLYING FOR AND OBTAINING A WAIVER OR
WAIVERS TO PROVIDE INDIVIDUALS WITH DISABILITIES WITH SERVICES
IN THE COMMUNITY

PREPARED BY:

STATE OF HAWAII
DEPARTMENT OF HEALTH
OCTOBER 2004

EXECUTIVE SUMMARY

In accordance with House Concurrent Resolution No. 103, H.D. 1, of the 2004 Legislative Session, the Department of Health is submitting a report to the 2005 Legislature on the request for the Department of Health and Department of Human Services to examine the federal Independence Plus initiative to determine if Hawaii can benefit from applying for and obtaining a waiver or waivers to provide individuals with disabilities with services in the community.

HCR 103, H.D. 1, requests the Director of Health to submit a report to the Governor and Legislature recommending whether the Department of Health will participate in the federal Independence Plus initiative and to describe the details of the waiver or waivers the Department intends to submit. HCR 103, H.D. 1, also requests the Director of Health to submit any proposed legislation, if necessary, required to proceed with any application for waivers.

The Independence Plus option from the Centers for Medicare & Medicaid (CMS) emerged over the last six years through successful Robert Wood Johnson pilot grants in Florida, Arkansas and New Jersey that allowed individuals to control their waiver budgets. CMS has encouraged all states to explore consumer directed models of care through the Independence Plus initiative with an approved CMS application template. This form of managed care allows states to set individual fixed annual budgets and shift the responsibility of control of the mix of services in the waiver budget to the consumer or client guardian rather than the case manager.

Since HCR 103, H.D. 1 was introduced, CMS has offered new options, one of which allows the state under the 1915(c) format to define its consumer-directed approach through self-direction and managed care. The Department of Health intends to submit its renewal application for the HCBS-DD/MR waiver on the new 1915(c) template, due in the fall of 2005. At this time, there is no legislative action necessary. The benefits of the waiver plan options from CMS are available to those states that effectively maximize existing resources to create flexible supports allowing individuals to live in their community without fiscal jeopardy to the individual or the State.

REPORT TO THE LEGISLATURE

IN COMPLIANCE WITH HOUSE CONCURRENT RESOLUTION NO. 103, H.D. 1

Requesting the Department of Health (DOH) and the Department of Human Services (DHS) to examine the federal Independence Plus initiative to determine if hawaii can benefit from applying for and obtaining a waiver or waivers to provide individuals with disabilities with services in the community.

Introduction

House Concurrent Resolution 103, H.D. 1, requests the Director of Health to submit a report to the Governor and Legislature recommending whether the Department of Health will participate in the federal Independence Plus initiative and to describe the details of the waiver or waivers the Department intends to submit. HCR 103, H.D. 1, also requests the Director of Health to submit any proposed legislation, if necessary, required to proceed with any application for waivers.

In the early 1980s, the State of Hawaii committed to the closure of its large State institution for individuals with mental retardation, Waimano Training School and Hospital. In order to facilitate this process, the State applied, and received approval for a Home and Community Based Services (HCBS) Medicaid waiver for this target population in 1983; the waiver services allowed the State to de-institutionalize these individuals and support them to live in the community. The target population to be supported in the community by the Medicaid waiver program was subsequently expanded to include those who would be diverted from institutionalization. Later, in the 1990s, recipients of the HCBS Medicaid waiver for individuals with developmental disabilities/mental retardation (HCBS-DD/MR) included those living in the community who needed institutional level of care services.

In 1995, Act 189 amended HRS 333F, the statute governing services for individuals with DD/MR, to direct the closure of Waimano Training School and Hospital in 1998, to define supports as person-centered and community-based, and to mandate the maximization of state funds for community services. In 1998, Act 133 revised HRS 333F, most significantly, making Hawaii the first state in the nation to have self-determination for individuals with DD/MR mandated in statute; Act 133 also extended the closure of Waimano Training School and Hospital to

June 1999. The HCBS-DD/MR Medicaid waiver program demand has grown considerably since 1983. At the time of the closure of Waimano in 1999, approximately 970 were waiver recipients. Currently, almost 2000 individuals with DD/MR are receiving HCBS-DD/MR Medicaid waiver services with an associated waiver budget growth. This is in step with the national trend to allow persons with developmental disabilities to move from institutions to their homes and families.

The service menu of the HCBS-DD/MR Medicaid waiver program has grown in types of services as well as flexibility of service delivery. In 2003, a consumer directed option was approved by CMS, allowing individuals with DD/MR to become employers of direct service workers providing personal assistance. Modeled after the DHS Nursing Home Without Walls Medicaid waiver program, the Consumer Directed Personal Assistance (CD-PA) service in the HCBS-DD/MR waiver became the tenth service category option adding to adult day health, habilitation, habilitation-supported employment, personal assistance, respite, skilled nursing, specialized services, non-medical transportation, and specialized environmental accessibility adaptations. The Independence Plus option from the Centers for Medicare & Medicaid (CMS) emerged over the last six years through successful Robert Wood Johnson pilot grants in Florida, Arkansas and New Jersey that allowed individuals to control their waiver budgets. Subsequently, CMS has encouraged all states to explore consumer directed models of care through the Independence Plus initiative with an approved CMS application template. This form of managed care allows states to set individual fixed annual budgets and shift the responsibility of control of the mix of services in the waiver budget to the consumer or client guardian rather than the case manager.

Discussion

Applications for waivers are generally in one of two basic formats - 1115 and 1915. In Hawaii the current HCBS-DD/MR waiver is a 1915(c). The 1115 format is generally a model or demonstration waiver. Over the past year both Departments have utilized consultants, met jointly and studied creative options to improve HCB waiver services with fiscal accountability.

In August 2004, the Centers for Medicare and Medicaid Services (CMS) distributed a new format for 1915(c) waivers available under the Independence Plus Initiative under the New Freedom Initiative. This format was designed to consolidate the existing waiver applications, i.e., the 1995 "standard

application format" and the 2002 Independence Plus template. This move was meant to allow states to have a clear direction for self-directed services and to accommodate self-directed approaches within current programs rather than having to develop an entirely new waiver program. This new format, effective January 2005, incorporates a more extensive quality assurance and improvement requirement for states and allows innovative changes to HCB waiver services. With Independence Plus the Department of Health plans to allow individuals to purchase specific services through a premium for a crisis network support and a limited dental benefit. Access to these two services is limited for some of the previous residents of Waimano Training School and Hospital, and also for those that utilized the state's crisis shelter prior to its closing in 2001.

The Department of Health is currently writing an application to renew the existing HCBS-DD/MR Medicaid waiver, which will end in June 2006. The proposed new CMS 1915(c) format allows the state to define its consumer-directed approach and emphasize self-direction and managed care including individualized budget management. The Department intends to complete its renewal waiver application with this new format for submission to CMS in the fall of 2005.

The DOH Developmental Disabilities Division is currently in the process of exploring alternatives for new services and new consumer-directed service delivery methods for inclusion in its renewal waiver. In addition, because of the requirement to demonstrate sustainability efforts for its Community-Integrated Personal Assistance Services and Supports (CPASS) grant, it will also be exploring various self directed components such as a fiscal intermediary, support intermediary or community support guide, as well as issues on liability and workmen's compensation insurance, rate setting, crisis services and risk management. The Department fully intends to elicit input from the community in its development of the renewal waiver. Several years ago, the Department of Health Developmental Disabilities Division established a Waiver Policy Advisory Committee to provide input on issues and concerns. The Division has presented a timeline to this committee, including several target dates to present updates on the Division's efforts for review and comment.

The Department of Human Services (DHS) is considering a Managed Care option for its QUEST waiver. As of October 14, 2004, DHS announced that DD/MR services may be included beginning January 2009. The Department of Health has expressed concern regarding a "one size fits all" managed care waiver for persons with

developmental disabilities included with the aged and other disabled populations needing medical models of support. The unique, lifelong community support needs of individuals with developmental disabilities are very different from end of life or medical care. Any managed care model must carefully consider these factors.

Conclusion

The Department of Health intends to submit its renewal application for the HCBS-DD/MR waiver on the new 1915(c) template (as issued in January 2005), which is due in the fall of 2005. At this time, there is no legislative action necessary. The benefits of the waiver plan options from CMS are available to those states that effectively maximize existing resources to create flexible supports allowing individuals to live in their community without fiscal jeopardy to the individual or the State. Both the state and the individual served will benefit from these welcomed innovative changes allowed from the federal government in its Medicaid program. Collaboration between the Departments is expected.